

**Introduced by Senator Leno**

February 27, 2009

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An act to add Section 6254.30 to the Government Code, relating to public records.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 748, as introduced, Leno. Public records: Witness Relocation and Assistance Program.

Existing law prohibits a state or local agency from posting on the Internet the home address or telephone number of any elected or appointed official, as defined. It also prohibits, and makes punishable as a misdemeanor or felony, as specified, any person from knowingly posting this information or that of the official's residing spouse or child on the Internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm to that individual.

This bill would prohibit a state or local agency from posting on the Internet the home address or telephone number of any participant in the Witness Relocation and Assistance Program, as defined. It also prohibits, and makes punishable as a misdemeanor or felony, as specified, any person from knowingly posting this information or that of the participant's residing spouse or child on the Internet knowing that person is a participant in the Witness Relocation and Assistance Program and intending to cause imminent great bodily harm to that individual. By making a violation of these provisions a crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6254.30 is added to the Government  
2 Code, to read:

3 6254.30. (a) For purposes of this section, “participant in the  
4 Witness Relocation and Assistance Program” means an individual  
5 certified by law enforcement as being a participant in the Witness  
6 Relocation and Assistance Program (Title 7.5 (commencing with  
7 Section 14020) of Part 4 of the Penal Code).

8 (b) No state or local agency shall post the home address or  
9 telephone number of any participant in the Witness Relocation  
10 and Assistance Program on the Internet without first obtaining the  
11 written permission of that individual.

12 (c) No person shall knowingly post the home address or  
13 telephone number of any participant in the Witness Relocation  
14 and Assistance Program, or of the participant’s residing spouse or  
15 child, on the Internet knowing that person is in the Witness  
16 Relocation and Assistance Program and intending to cause  
17 imminent great bodily harm that is likely to occur or threatening  
18 to cause imminent great bodily harm to that individual. A violation  
19 of this subdivision is a misdemeanor. A violation of this  
20 subdivision that leads to the bodily injury of the individual, or his  
21 or her residing spouse or child, is a misdemeanor or a felony.

22 (d) (1) No person, business, or association shall publicly post  
23 or publicly display on the Internet the home address or telephone  
24 number of any participant in the Witness Relocation and Assistance  
25 Program if that individual has made a written demand of that  
26 person, business, or association to not disclose his or her home  
27 address or telephone number. A written demand made under this  
28 paragraph shall be effective for four years and may be renewed  
29 for an additional four years if law enforcement certifies the criminal  
30 proceeding is pending, regardless of whether or not the individual  
31 is still a participant in the Witness Relocation and Assistance  
32 Program prior to the end of the four-year period. For this purpose,

1 “publicly post” or “publicly display” means to intentionally  
2 communicate or otherwise make available to the general public.

3 (2) A participant in the Witness Relocation and Assistance  
4 Program whose home address or telephone number is made public  
5 as a result of a violation of paragraph (1) may bring an action  
6 seeking injunctive or declarative relief in any court of competent  
7 jurisdiction. If a jury or court finds that a violation has occurred,  
8 it may grant injunctive or declarative relief and shall award the  
9 official court costs and reasonable attorney’s fees.

10 (e) (1) No person, business, or association shall solicit, sell, or  
11 trade on the Internet the home address or telephone number of a  
12 participant in the Witness Relocation and Assistance Program with  
13 the intent to cause imminent great bodily harm to the individual  
14 or to any person residing at the individual’s home address.

15 (2) Notwithstanding any other provision of law, a participant  
16 in the Witness Relocation and Assistance Program whose home  
17 address or telephone number is solicited, sold, or traded in violation  
18 of paragraph (1) may bring an action in any court of competent  
19 jurisdiction. If a jury or court finds that a violation has occurred,  
20 it shall award damages to that individual in an amount up to a  
21 maximum of three times the actual damages but in no case less  
22 than four thousand dollars (\$4,000).

23 (f) An interactive computer service or access software provider,  
24 as defined in Section 230(f) of Title 47 of the United States Code,  
25 shall not be liable under this section unless the service or provider  
26 intends to abet or cause imminent great bodily harm that is likely  
27 to occur or threatens to cause imminent great bodily harm to a  
28 participant in the Witness Relocation and Assistance Program.

29 SEC. 2. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty  
34 for a crime or infraction, within the meaning of Section 17556 of  
35 the Government Code, or changes the definition of a crime within  
36 the meaning of Section 6 of Article XIII B of the California  
37 Constitution.